IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 22613 of 2007(P)

PETITIONER:

ROY FRANCIS,
PADAMADAN (KUTTUNGAL), SION HOUSE,PERUMPADANNA,
N. PARAVUR, ERNAKULAM DISTRICT.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:

1. THE PALLIPURAM GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, CHERAL P.O.,
ERNAKULAM DISTRICT.

2. UNION OF INDIA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
MINISTRY OF ENVIRONMENT AND FORESTS,"PARYAVARAN
BHAVAN", CGO COMPLEX, LODI ROAD, NEW DELHI-110 003

3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF SCIENCE, TECHNOLOGY AND ENVIRONMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

ADDL.R4: THE CHAIRMAN, COASTAL ZONE MANAGEMENT AUTHORITY
SASTHRI BHAVAN, THIRUVANANTHAPURAM,
IMPLEADED AS PER ORDER ON WPC.30-10-2007.

BY ADV. SRI.T.A.SHAJI
SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
BY GOVT. PLEADER MR. K.J. MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC.22613/2007

APPENDIX:

petitioner's EXTS:

EXT.P1: TRUE COPY OF THE REQUEST FOR PERMISSION TO CONSTRUCT BUILDING BY THE petitioner.
EXT.P1(A): TRUE COPY OF THE PLAN OF THE PROPOSED BUILDING IN 2 STOREYS.
EXT.P2: TRUE COPY OF THE ORDER DENYING PERMISISON DATED 14-6-2007 BY THE FIRST RESPONDENT.

EXT.P3: TRUE COPY OF THE NOTIFICATION nO.S.O.944(e)DATED 15-12-1990 ISSUED BY THE MINISTRY OF ENVIRONMENT & FORESTS GOVT.OF INDIA(RELEVANT PORTION)

EXT.P4: TRUE CPY OF THE FINAL NOTIFICATION NO. S.O.114(E)19.2.91 ISSUED BY THE MINISTRY OF ENVIRONMENT & FOREST GOVT.OF INDIA (RELEVANT PORTION)

RESPONDENTS' EXTS:

NIL

TRUE COPY

P.S.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C)No. 22613 OF 2007

DATED THIS THE 10th DECEMBER , 2007

J U D G M E N T

Under challenge in this writ petition is Ext.P2 order passed by the first respondent Panchayat informing the petitioner of the rejection the petitioner's application for NOC for constructing a building. The reasons stated in Ext.P2 is that the plot upon which constructions are proposed to be made within the coastal zone regulations.

2. Heard Mr.Vijayan, learned counsel for the petitioner, Mr.K.J.Mohammed Anzazr, learned Government Pleader and Mr.T.A.Shaji, learned counsel for Panchayat. Mr.Vijayan submitted that the petitioner was already having building No.II/542 A which was numbered by the Panchayat itself and the proposal is only to construct additional constructions. The Panchayat is permitting several others to construct buildings even closer them the building proposed by the petitioner to the shore and the Panchayat is discriminating the petitioner in a very hostile manner. The learned Government Pleader and the learned counsel for the Panchayat submitted that the Hon'ble Supreme Court has stated that the authority competent to decide whether the construction violates the Zone Regulation and whether construction should be permitted is the additional 4th

respondent authority. It is brought to my notice that following the orders of the Supreme court in several cases this Court has relegated the parties to the additional 4th respondent. In the circumstances, I am of the view that the petitioner has to approach the additional 4th respondent authority by filing necessary application. If the additional 4th respondent authority receives an application from the petitioner within 10 days of his receiving a copy of this judgment, the authority will consider that application after calling for a report from the first respondent Panchayat. While taking a decision of the Panchayat, the authority will take into account the circumstance that adjacent to the proposed site, building No.II/542 A assessed by the Panchayat itself stands and virtually the petitioner's request is that he may be permitted to make additional constructions. The decision will be taken by the authority within six weeks of receiving of the petitioner filing application. The writ petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

ks.